



California Regulatory Notice Register

REGISTER 2004, NO. 15-Z

PUBLISHED WEEKLY BY THE OFFICE OF ADMINISTRATIVE LAW

APRIL 9, 2004

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The *California Regulatory Notice Register* is an official state publication of the Office of Administrative Law containing notices of proposed regulatory actions by state regulatory agencies to adopt, amend or repeal regulations contained in the California Code of Regulations. The effective period of a notice of proposed regulatory action by a state agency in the *California Regulatory Notice Register* shall not exceed one year [Government Code § 11346.4(b)]. It is suggested, therefore, that issues of the *California Regulatory Notice Register* be retained for a minimum of 18 months.

CALIFORNIA REGULATORY NOTICE REGISTER (ISSN 1041-2654) is published weekly by the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339. The Register is printed by the Office of State Publishing and is offered by subscription for \$302.00 (annual price). To order or make changes to current subscriptions, please call (916) 445-5353 or (916) 445-5386. For outside of the Sacramento area, call (800) 963-7860. Periodicals postage paid at Sacramento, CA and additional mailing offices. **POSTMASTER:** Send address changes to the: CALIFORNIA REGULATORY NOTICE REGISTER, Customer Coordinator, Office of State Publishing, 344 N. 7th Street, Mass Mail/Addressing Services, Sacramento, CA 95814-0212. The Register can also be accessed at <http://www.oal.ca.gov>.

PROPOSED ACTION ON REGULATIONS

Information contained in this document is published as received from agencies and is not edited by the Office of State Publishing.

TITLE 2. FAIR POLITICAL PRACTICES COMMISSION

NOTICE IS HEREBY GIVEN that the Fair Political Practices Commission, under the authority vested in it by Section 83112 of the Government Code, proposes to adopt, amend, or repeal regulations in Title 2, Division 6 of the California Code of Regulations. The Fair Political Practices Commission will consider the proposed regulation at a public hearing on or after May 13, 2004, at 9:30 a.m. Written comments must be received at the Commission offices no later than noon on May 12, 2004.

BACKGROUND/OVERVIEW

The Act provides that a public official may participate in a governmental decision despite the existence of a disqualifying conflict of interest if the financial effect of that decision on the official's economic interests will not be *distinguishable from the decision's effect upon the public generally*. (Section 87103; regulation 18700(a).) This qualifier is the origin of the "public generally" exception.

The primary form of the "public generally" exception is embodied in regulation 18707.1. The exception has two components: (1) all, or a *significant segment*, of the public within the agency's jurisdiction will be affected by the decision, and (2) the effect upon the public official's economic interest will be in *substantially the same manner* as the effect upon the significant segment. (Regulation 18707(b).)

REGULATORY ACTION

Amend 2 Cal. Code Regs. § 18707.1: The Commission will consider various clarifying amendments to regulation 18707.1 in circumstances where a conflict of interest arises from a public official's interest in real property.

Specifically, the Commission may amend this regulation to explain what type of effects should be considered in determining whether a decision will affect the "significant segment" in "substantially the same manner" as the decision will affect the public official. For example, the Commission may add language that would clarify that the "public generally" test, like the other conflict-of-interest provisions of the Act, are based on financial effects. In addition,

the Commission may clarify that financial effects need not be identical in order for the exception to apply. (Version 1.)

In addition, the Commission may amend regulation 18707.1 to specifically clarify its application to leasehold interests. (Version 2.)

SCOPE

The Commission may delete provisions, adopt the language noticed herein, or choose new language to implement its decisions concerning the general rule for the "public generally" exception, its scope or other related issues.

FISCAL IMPACT STATEMENT

Fiscal Impact on Local Government. This regulation will have no fiscal impact on any local entity or program.

Fiscal Impact on State Government. This regulation will have no fiscal impact on any state entity or program.

Fiscal Impact on Federal Funding of State Programs. This regulation will have no fiscal impact on the federal funding of any state program or entity.

AUTHORITY

Government Code section 83112 provides that the Fair Political Practices Commission may adopt, amend, and rescind rules and regulations to carry out the purposes and provisions of the Political Reform Act.

REFERENCE

The purpose of this regulation is to implement, interpret and make specific Government Code section 87103.

CONTACT

Any inquiries should be made to Natalie Bocanegra, Fair Political Practices Commission, 428 J Street, Suite 800, Sacramento, CA 95814; telephone (916) 322-5660 or 1-866-ASK-FPPC. Proposed regulatory language can be accessed at www.fppc.ca.gov/index.html?id=351.

ADDITIONAL COMMENTS

After the hearing, the Commission may adopt or repeal this regulation if it remains substantially the same as described or as in the text originally made available to the public. The Commission may make changes to this regulation before its adoption or repeal.

TITLE 2. STATE ALLOCATION BOARD

NOTICE OF PROPOSED REGULATORY ACTION

THE STATE ALLOCATION BOARD PROPOSES TO AMEND THE FOLLOWING REGULATION SECTIONS, ALONG WITH AN ASSOCIATED FORM, TITLE 2, CALIFORNIA CODE OF REGULATIONS, RELATING TO LEROY F. GREENE SCHOOL FACILITIES ACT OF 1998

PROPOSED AMENDMENTS TO REGULATION SECTIONS: 1859.2, 1859.145 and 1859.145.1

PROPOSED AMENDMENTS TO THE FOLLOWING FORM:

Application for Preliminary Apportionment, Form SAB 50-08 (Revised 01/04), Referenced in Regulation Section 1859.2

NOTICE IS HEREBY GIVEN that the State Allocation Board (SAB) proposes to amend the above-referenced regulation sections along with an associated form, contained in Title 2, California Code of Regulations (CCR). A public hearing is not scheduled. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Office of Public School Construction (OPSC) no later than 15 days prior to the close of the written comment period. Following the public hearing if one is requested, or following the written comment period if no public hearing is requested, the OPSC, at its own motion or at the instance of any interested person, may adopt the proposals substantially as set forth above without further notice.

AUTHORITY AND REFERENCE CITATIONS

The SAB is proposing to adopt and amend these regulations under the authority provided by Sections 17070.35 and 17075.15 of the Education Code. The proposals interpret and make specific reference to Sections 17072.13, 17072.18, 17075.10, 17078.10, and 17078.24 of the Education Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The Leroy F. Greene School Facilities Act of 1998 established, through Senate Bill 50, Chapter 407, Statutes of 1998, the School Facility Program (SFP). The SFP provides a per-pupil grant amount to qualifying school districts for purposes of constructing school facilities and modernizing existing school facilities. The SAB adopted regulations to implement the Leroy F. Greene School Facilities Act of 1998, which were approved by the Office of Administrative Law (OAL) and filed with the Secretary of State on October 8, 1999.

The Critically Overcrowded Schools (COS) Program was incorporated in the initial emergency regulations approved by the OAL on November 4, 2002. The following SFP regulations are being amended to provide guidance and direction to school districts for purposes of participating under the COS Program while maintaining ongoing program operation and integrity:

Existing Regulation Section 1859.145 sets forth the preliminary apportionment calculation for those preliminary applications received no later than May 1, 2003. The proposed amendment sets forth a new calculation for preliminary applications received after May 1, 2003.

Existing Regulation Section 1859.145.1 provides the calculation for preliminary application requests that include site acquisition. The proposed amendment provides funding for hazardous waste removal and/or remediation costs on an existing school site.

Existing SAB Form 50-08 is used by school districts to file for a Preliminary Apportionment under the COS program once the SAB has determined or adjusted the school district's eligibility for new construction funding. The proposed amendments incorporate use of grant language, hazardous waste removal on existing sites and an inflation factor consistent with the proposed amendments in the affected regulation sections listed above.

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

The Executive Officer of the SAB has determined that the proposed regulations do not impose a mandate or a mandate requiring reimbursement by the State pursuant to Part 7 (commencing with Section 17500) of Division 4 of the Government Code. It will not require local agencies or school districts to incur additional costs in order to comply with the proposed regulations.

ECONOMIC IMPACT

The Executive Officer of the SAB has assessed the potential for significant adverse economic impact on businesses or private persons that might result from the proposed regulatory actions and the following determinations have been made relative to the required statutory categories:

- The SAB has made an initial determination that there will be no significant, statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- There will be no impact in the creation or elimination of jobs within the state, the creation of

new businesses or the elimination of existing businesses or the expansion of businesses in California.

- The SAB is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed actions.
- There will be no non-discretionary costs or savings to local agencies.
- There will be no costs to school districts except for the required district contribution toward each project as stipulated in statute.
- There will be no costs or savings in federal funding to the state.
- There are no costs or savings to any State agency.
- The SAB has made an initial determination that there will be no impact on housing costs.

EFFECT ON SMALL BUSINESSES

It has been determined that the adoption of the regulation sections will not affect small businesses in the ways identified in subsections (a)(1)-(4) of Section 4, Title 1, CCR. These regulations only apply to school districts for purposes of funding school facility projects.

SUBMISSION OF COMMENTS, DOCUMENTS AND ADDITIONAL INFORMATION

Any interested person may present statements, arguments or contentions, in writing, submitted via U.S. mail, e-mail or fax, relevant to the proposed regulatory action. Written comments submitted via U.S. mail, e-mail or fax, must be received at the OPSC no later than May 24, 2004 at 5:00 p.m. The express terms of the proposed regulations as well as the Initial Statement of Reasons are available to the public.

Written comments, submitted via U.S. mail, e-mail or fax, regarding the proposed regulatory actions, requests for a copy of the proposed regulatory action or the Initial Statement of Reasons, and questions concerning the substance of the proposed regulatory actions should be addressed to:

Robert Young,
Regulation Coordinator

Mailing Address: Office of Public School
Construction
1130 K Street, Suite 400
Sacramento, CA 95814

E-mail Address: robert.young@dgs.ca.gov

Fax No.: (916) 445-5526

AGENCY CONTACT PERSONS

General or substantive questions regarding this Notice of Proposed Regulatory Action may be directed to Robert Young at (916) 445-0083. If Mr. Young is

unavailable, these questions may be directed to the backup contact person, Lisa Jones, at (916) 322-1043.

ADOPTION OF REGULATIONS

Please note that, following the public comment period, the SAB may adopt the regulations substantially as proposed in this notice or with modifications, which are sufficiently related to the originally proposed text and notice of proposed regulatory activity. If modifications are made, the modified text with the changes clearly indicated will be made available to the public for at least 15 days prior to the date on which the SAB adopts the regulations.

The modified regulation(s) will be made available and provided to: all persons who testified at and who submitted written comments at the public hearing, all persons who submitted written comments during the public comment period, and all persons who requested notification from the agency of the availability of such changes. Requests for copies of any modified regulation should be addressed to the agency's regulation coordinator identified above. The SAB will accept written comments on the modified regulations during the 15-day period.

SUBSTANTIAL CHANGES WILL REQUIRE A NEW NOTICE

If, after receiving comments, the SAB intends to adopt the regulations with modifications not sufficiently related to the original text, the modified text will not be adopted without complying anew with the notice requirements of the Administrative Procedure Act.

RULEMAKING FILE

Pursuant to Government Code Section 11347.3, the SAB is maintaining a rulemaking file for the proposed regulatory actions. The file currently contains:

1. A copy of the text of the regulations for which the adoption is proposed in ~~strikeout~~/underline.
2. A copy of this notice.
3. A copy of the Initial Statement of Reasons for the proposed adoption.
4. The factual information upon which the SAB is relying in proposing the adoption.

As data and other factual information, studies, reports or written comments are received, they will be added to the rulemaking file. The file is available for public inspection at the OPSC during normal working hours. Items 1 through 3 are also available on the OPSC Internet Web site at: <http://www.opsc.dgs.ca.gov> under "Regulations," then click on "Proposed Regulations."

ALTERNATIVES

In accordance with Government Code Section 11346.5(a)(13), the SAB must determine that no reasonable alternative it considered or that has otherwise been identified and brought to the attention of the SAB would be more effective in carrying out the purpose of which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed actions.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the agency's regulation coordinator named in this notice or may be accessed on the Web site listed above.

TITLE 3. DEPARTMENT OF PESTICIDE REGULATION

**Disclosure of Mill Assessment Reporting
DPR Regulation No. 04-002**

NOTICE OF PROPOSED REGULATORY ACTION

The Department of Pesticide Regulation (DPR) proposes to amend section 6388 of Title 3, California Code of Regulations (3 CCR). The proposed regulatory action pertains to the disclosure of mill assessment reports of pesticide registrants.

SUBMITTAL OF COMMENTS

Any interested person may present comments in writing about the proposed action to the agency contact person named below. Written comments must be received no later than 5:00 p.m. on May 24, 2004. Comments regarding this proposed action may also be transmitted via e-mail <dpr04002@cdpr.ca.gov>, or by facsimile (FAX) transmission at (916) 327-9688.

A public hearing is not scheduled. However, a public hearing will be scheduled if any interested person submits a written request for a public hearing to DPR no later than 15 days prior to the close of the written comment period.¹

EFFECT ON SMALL BUSINESS

DPR has determined that the proposed regulatory action does not affect small business. This proposal only affects the Department's operating procedures. It does not change any reporting requirement for businesses.

¹ If you have special accommodation or language needs, please include this in your request for a public hearing. TTY/TDD speech-to-speech users may dial 7-1-1 for the California Relay Service.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Pesticide registrants are required by 3 CCR section 6833 to report quarterly the total dollars of sales and total pounds or gallons of each registered pesticide product sold into or within California. This section facilitates the collection of the mill assessment required in Division 7, Article 4.5 of the Food and Agricultural Code (FAC), commencing with section 12841. The existing subsection (d) of section 6388 provides that whenever three or fewer registrants report sales of a pesticide containing the same active ingredient, such reports will be considered trade secrets and will not be disclosed by DPR. The proposed action would delete this language of the provision to conform with current California law under the Public Records Act, Government Code (GC) section 6250 et seq.

The designation of the mill assessment reports of registrants in situations where there are three or fewer registrants reporting sales of products containing a single active ingredient as "trade secrets" is invalid, and inconsistent with existing California law, specifically with the requirements of the Public Records Act (GC Code section 6250 et seq.).

The mill assessment reports are not "trade secrets" as defined in the Public Records Act or Uniform Trade Secrets Act, Civil Code section 3426 et seq. Even if the information contained in the reports submitted by some registrants pursuant to 3 CCR section 6388 could be arbitrarily designated a "trade secret," the Public Records Act requires their production as a public record unless DPR could make the determination that the public interest served by not making the record public clearly outweighs the public interest served by disclosure of the record. Therefore, the proposed amendment is intended to bring the regulation into compliance with California law.

In addition, DPR proposes to clarify which agency is being referenced in subsection (b) by replacing the previous acronym for U.S. Environmental Protection Agency—"EPA," with the acronym "U.S. EPA."

IMPACT ON LOCAL AGENCIES OR SCHOOL DISTRICTS

DPR has determined that the proposed regulatory action does not impose a mandate on local agencies or school districts nor does it require reimbursement by the State pursuant to Part 7 (commencing with section 17500) of Division 4 of the GC because the regulatory action does not constitute a "new program or higher level of service of an existing program" within the meaning of section 6 of Article XIII of the California Constitution. DPR has also determined that no

nondiscretionary costs or savings to local agencies or school districts will result from the proposed regulatory action.

DPR anticipates that there will be no fiscal impact to these agencies because the proposed regulatory action makes no change to any existing regulations that are enforced by any local agency.

COSTS OR SAVINGS TO STATE AGENCIES

DPR has determined that no increased costs or savings to any State agency will result from the proposed regulatory action.

**EFFECT ON FEDERAL FUNDING
TO THE STATE**

DPR has determined that no costs or savings in federal funding to the State will result from the proposed action.

EFFECT ON HOUSING COSTS

DPR has made an initial determination that the proposed action will have no effect on housing costs.

**SIGNIFICANT STATEWIDE ADVERSE
ECONOMIC IMPACT DIRECTLY
AFFECTING BUSINESSES**

DPR has made an initial determination that the proposed amendment of this regulation will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states.

**COST IMPACTS ON REPRESENTATIVE
PRIVATE PERSONS OR BUSINESSES**

DPR has made an initial determination that the proposed amendment of this regulation will not have a significant cost impact on representative private persons or businesses. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur as a result of this proposed regulatory action.

**IMPACT ON THE CREATION, ELIMINATION,
OR EXPANSION OF JOBS/BUSINESSES**

DPR has determined it is unlikely the proposed regulatory action will impact the creation or elimination of jobs, the creation of new businesses or the elimination of existing businesses, or the expansion of businesses currently doing business with the State of California.

CONSIDERATION OF ALTERNATIVES

DPR must determine that no reasonable alternative considered by the agency, or that has otherwise been identified and brought to the attention of the agency, would be more effective in carrying out the purpose

for which the action is proposed or would be as effective and less burdensome to affected private persons or businesses.

AUTHORITY

This regulatory action is taken pursuant to authority vested by FAC sections 11456, 12781, and 12845.

REFERENCE

This regulatory action is to implement, interpret, or make specific FAC sections 12843 and 12845.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After the close of the comment period, DPR may make the regulation permanent if it remains substantially the same as described in the Informative Digest. If DPR does make changes to the regulation, the modified text will be made available for at least 15 days prior to adoption. Requests for the modified text should be addressed to the agency contact person named in this notice. DPR will accept written comments only on any changes for 15 days after the modified text is made available.

**AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS**

DPR has prepared an Initial Statement of Reasons, and has available the express terms of the proposed action, all of the information upon which the proposal is based, and a rulemaking file. A copy of the Initial Statement of Reasons and the proposed text of the regulation may be obtained from the agency contact person named in this notice. The information upon which DPR relied in preparing this proposal and the rulemaking file are available for review at the address specified below.

AGENCY CONTACT

Written comments about the proposed regulatory action, requests for a copy of the Initial Statement of Reasons, the proposed text of the regulation, and a public hearing, and inquiries regarding the rulemaking file may be directed to:

Linda Irokawa-Otani, Regulations Coordinator
Department of Pesticide Regulation
1001 I Street, P.O. Box 4015
Sacramento, California 95812-4015
(916) 445-3991

In the event the contact person is unavailable, or questions on the substance of the proposed regulatory

action, particularly technical or historical questions concerning the mill assessment report regulations, may be directed to:

Polly Frenkel, Acting Chief Counsel
Department of Pesticide Regulation
Office of Legal Affairs
(916) 324-2666

This Notice of Proposed Action, the Initial Statement of Reasons, and the proposed text of the regulation are also available on DPR's Internet Home Page <<http://www.cdpr.ca.gov>>.

**AVAILABILITY OF FINAL
STATEMENT OF REASONS**

Following its preparation, a copy of the Final Statement of Reasons mandated by GC section 11346.9(a) may be obtained from the contact person named above. In addition, the Final Statement of Reasons will be posted on DPR's Internet Home Page and accessed at <<http://www.cdpr.ca.gov>>.

**TITLE 4. CALIFORNIA GAMBLING
CONTROL COMMISSION**

NOTICE OF PROPOSED RULEMAKING

"Emergency Preparedness Plans for Cardrooms"

The California Gambling Control Commission ("Commission") proposes to adopt the regulations described below after considering all comments, objections, or recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Commission proposes to adopt sections 12370 and 12371 of Title 4 of the California Code of Regulations, concerning emergency preparedness plans for cardrooms. These regulations were adopted on an emergency basis in June 2003. The current rulemaking action would make these changes permanent.

PUBLIC HEARING

The Commission will hold a public hearing starting at 11 a.m. on Wednesday, June 9, 2004, at 2399 Gateway Oaks Drive, Suite 100, Sacramento, CA 95833-4231. The room is wheelchair accessible. At the hearing, any person may present statements or arguments orally or in writing relevant to the proposed action described in the Informative Digest.

WRITTEN COMMENT PERIOD

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Commission at any time during the 45-day public comment period. To be considered for summary and response, all written

comments must be received no later than 5:00 p.m., Wednesday, June 9, 2004 (the day of the public hearing).

Written comments for the Commission's consideration should be directed to:

Herb Bolz, Senior Legal Counsel
and Regulations Coordinator
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833-4231
Telephone: 916-263-0490
E-mail: hbolz@cgcc.ca.gov
FAX 916-263-0452

AUTHORITY AND REFERENCE

Authority for the proposed regulations is provided by various provisions of the Gambling Control Act, which may be found in Business and Professions ("B & P") Code sections 19800-19980. In particular, B & P Code sections 19811, 19823, 19824, 19840, and 19920.

The reference citations are as follows: the proposed regulations implement, interpret, or make specific B & P Code sections 19801 and 19920.

**INFORMATIVE DIGEST AND POLICY
STATEMENT OVERVIEW**

Existing state law (the Gambling Control Act) grants to the Commission jurisdiction and supervision over all cardrooms ("gambling establishments") in California and over all persons and things having to do with the operation of cardrooms. The Commission is directed, among other things, to assure that cardrooms are operated in a manner that protects public health, safety, and welfare. Cardrooms are required to maintain "security controls" over gambling premises and operations, controls which are subject to approval by the Commission. Cal-OSHA requires that all employers have evacuation plans covering employees.

The proposed regulation requires cardrooms to develop and implement emergency preparedness and evacuation plans that cover not only employees, but also patrons. These plans must (1) address specified threats (such as fires) and (2) contain specified elements. The smallest cardrooms are permitted to submit simpler plans. These plans must be consistent with other applicable law. The regulation also sets a deadline for submission of plans by cardrooms to the Commission; requires cardroom employees to be trained concerning their duties under the plan; and provides for sanctions in the event a cardroom fails to submit a plan or fails to correct identified deficiencies.

DISCLOSURES REGARDING THE
PROPOSED ACTION

Mandate on local agencies and school districts: These regulations do not impose a mandate on local agencies or school districts.

Cost or savings to any state agency: None.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code section 17561: None

Other non-discretionary cost or savings imposed upon local agencies: None

Cost or savings in federal funding to the state: None

Cost impact on representative private person or business: Some cardrooms already have emergency plans. If these plans comply with the regulation, no costs would be incurred. Cardrooms lacking plans would need to spend time preparing a plan. However, the Commission is not aware of specific expenditures that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.

Impact on Business: The Commission has made an initial determination that the proposed regulatory changes will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

Significant effect on housing costs: The Commission has made an initial determination that the proposed regulatory action would not affect housing costs.

Effect on small business: The Commission has made an initial determination that the effect these regulations will have on small business will be minor.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5(a)(13), the Commission must determine that no reasonable alternative considered by the Commission or that has otherwise been identified and brought to the attention of the Commission would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

ASSESSMENT REGARDING CREATION OR
ELIMINATION OF JOBS IN CALIFORNIA

The Commission has made an assessment and determined that the adoption of the proposed regulation will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

CONTACT PERSONS

Inquiries concerning the substance of the proposed action should be directed to:

Herb Bolz, Senior Legal Counsel
and Regulations Coordinator
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833-4231
Telephone: 916-263-0490
E-mail: hbolz@cgcc.ca.gov
FAX 916-263-0452

Requests for a copy of the proposed text of the regulation, the initial statement of reasons, the modified text of the regulation, if any, or other technical information upon which the rulemaking is based should be directed to:

Herb Bolz, Senior Legal Counsel
and Regulations Coordinator
California Gambling Control Commission
2399 Gateway Oaks Drive, Suite 100
Sacramento, CA 95833-4231
Telephone: 916-263-0490
E-mail: hbolz@cgcc.ca.gov
FAX 916-263-0452

Or:

Susie Hernandez, Regulations Analyst
Telephone: (916) 274-0688
FAX number: (916) 263-0499
e-mail shernandez@cgcc.ca.gov

AVAILABILITY OF STATEMENT OF REASONS
AND TEXT OF PROPOSED REGULATIONS

The Regulations Coordinator will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at the office at the above address. As of the date this notice is published in the Notice Register, the rulemaking file consists of this notice, the proposed text of the regulation, and the Initial Statement of Reasons. A copy may be obtained by contacting the Regulations Coordinator at the address or telephone number listed above or accessing the Commission's website at <http://www.cgcc.ca.gov>. Upon its completion, the Final Statement of Reasons will be available and copies may be requested from the Regulations Coordinator or viewed on the website.

AVAILABILITY OF CHANGED
OR MODIFIED TEXT

Following the public hearing, the Commission may adopt the proposed regulation substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the modified text, with changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Commission adopts the regulation. Requests for copies of any modified

regulation should be sent to the attention of the Regulations Coordinator at the address indicated above. The Commission will accept written comments on the modified regulation for 15 days after the date on which it is made available.

TITLE 13. DEPARTMENT OF MOTOR VEHICLES

NOTICE IS HEREBY GIVEN

The Department of Motor Vehicles (the department) proposes to amend Section 156.00 in Chapter 1, Division 1, Article 3 of Title 13, California Code of Regulations to clarify the issuance of Clean Air Vehicle Decals.

PUBLIC HEARING

A public hearing regarding this proposed regulatory action is not scheduled. However, a public hearing will be held if any interested person or his or her duly authorized representative requests a public hearing to be held relevant to the proposed action by submitting a written request to the contact person identified in this notice no later than 5:00 P.M., fifteen (15) days prior to the close of the written comment period.

DEADLINE FOR WRITTEN COMMENTS

Any interested person or his or her duly authorized representative may submit written comments relevant to the proposed regulations to the contact person identified in this notice. All written comments must be received at the department no later than 5:00 P.M., MAY 24, 2004, the final day of the written comment period, in order for them to be considered by the department before it adopts the proposed regulation.

AUTHORITY AND REFERENCE

The department proposes to adopt this regulation under the authority granted by Section 1651 of the Vehicle Code in order to implement, interpret or make specific Sections 5205.5 and 21655.9 of the Vehicle Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Vehicle Code Sections 5205.5 and 21655.9 allow owners of inherently low emission vehicles to apply for an exemption to use the high occupancy traffic lanes (diamond lanes) with fewer than the required number of occupants. The proposed amendment deletes reference to the ultra-low emission vehicle as a result of the amendment of Vehicle Code section 5202.5. The proposed amendment also specifies that the vehicle must be shown on the Air Resources Board's (ARB) listing and, if not, certification from ARB must be obtained before the decals will be issued.

DOCUMENTS INCORPORATED BY REFERENCE

“Zero Emission Vehicle (ZEV) Parking Decal Application” (REV. 1/2004). The form is being incorporated by reference since it is impractical and cumbersome to publish in the California Code of Regulations a form that will only be used for a specified purpose. It is anticipated that the information currently being provided by the customers will remain the same.

FISCAL IMPACT STATEMENT

- Cost or Savings To Any State Agency: None.
- Other Non-Discretionary Cost or Savings to Local Agencies: None.
- Costs or Savings in Federal Funding to the State: None.
- Cost Impact on Representative Private Persons or Businesses: None. The agency is not aware of any cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed action.
- Effect on Housing Costs: None.

DETERMINATIONS

The department has made the following initial determinations concerning the proposed regulatory action:

- The proposed regulatory action will not have a significant statewide adverse economic impact directly affecting businesses, including the ability of California businesses to compete with businesses in other states. This is a voluntary program and decals are only issued to vehicles that qualify.
- The adoption of this regulation is not expected to create or eliminate jobs or businesses in the state of California or reduce or expand businesses currently doing business in the state of California.
- The proposed regulatory action will not impose a mandate on local agencies or school districts, or a mandate that requires reimbursement pursuant to part 7 (commencing with Section 17500) of Division 4 of the Government Code.
- The proposed regulatory action will not affect small businesses. This a voluntary program and the regulation only specifies what is necessary in order to obtain high occupancy vehicle decals.

PUBLIC DISCUSSIONS OF PROPOSED REGULATIONS

A pre-notice workshop, pursuant to Government Code section 11346.45, is not required because the issues addressed in the proposal are not so complex or large in number that they cannot easily be reviewed during the comment period.

ALTERNATIVES CONSIDERED

The department must determine that no reasonable alternative considered by the department or that has otherwise been identified and brought to the attention of the department would be more effective in carrying out the purpose for which the action is proposed, or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Inquiries relevant to the proposed action and questions on the substance of the proposed regulations should be directed to the department representative, Bonnie DeWatney, Department of Motor Vehicles, P.O. Box 932382, Mail Station E-244, Sacramento, California 94232-3820; telephone number (916) 657-8954, or bdewatney@dmv.ca.gov. In the absence of the department representative, inquiries may be directed to the Regulations Coordinator, Deborah Baity, at (916) 657-5690 or dbaity@dmv.ca.gov. The fax number for the Regulations Branch is (916) 657-1204.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The department has prepared an initial statement of reasons for the proposed action, and has available all the information upon which the proposal is based. The contact person identified in this notice shall make available to the public upon request the express terms of the proposed action using underline or italics to indicate additions to, and strikeouts to indicate deletions from the California Code of Regulations. The contact person identified in this notice shall also make available to the public, upon request, the final statement of reasons once it has been prepared and submitted to the Office of Administrative Law, and the location of public records, including reports, documentation and other materials related to the proposed action. In addition, the above-cited materials (Initial Statement of Reasons and Express Terms) may be accessed at www.dmv.ca.gov, Other Services, Legal Affairs Division, Regulatory Actions Web Page.

AVAILABILITY OF MODIFIED TEXT

Following the written comment period and the hearing, if one is held, the department may adopt the proposed regulations substantially as described in this notice. If modifications are made which are sufficiently related to the originally proposed text, the full, modified text with changes clearly indicated would be made available to the public for at least 15 days prior to the date on which the department adopts the resulting regulations. Requests for copies of any modified regulations should be addressed to the department contact person identified in this notice.

The department will accept written comments on the modified regulations for 15 days after the date on which they are first made available to the public.

TITLE 14. BOARD OF FORESTRY AND FIRE PROTECTION

NOTICE OF PROPOSED RULEMAKING

Transition Silviculture Method 2004

The Board of Forestry and Fire Protection (Board) proposes to adopt the regulations described below after considering all comments, objections, and recommendations regarding the proposed action.

PROPOSED REGULATORY ACTION

The Board proposes to amend the following sections of Title 14 of the California Code of Regulations (14 CCR):

Amend:

§ 913.2(b)[933.2(b), 953.2(b)]

Regeneration Methods Used in Unevenaged Management; Transition

§ 913.11(c)(1)&(2) [933.11(c)(1)&(2), 953.11(c)(1)&(2)]

Maximum Sustained Production of High Quality Timber Products

PUBLIC HEARING

The Board will hold a public hearing starting at 9:00 A.M., on Wednesday, June 9, 2004, at the Resources Building Auditorium, 1st Floor, and 1416 Ninth Street, Sacramento, California. At the hearing, any person may present statements or arguments, orally or in writing, relevant to the proposed action described in the *Informative Digest*. The Board requests, but does not require, that persons who make oral comments at the hearing also submit a summary of their statements. Additionally, pursuant to Government Code § 11125.1, any information presented to the Board during the open hearing in connection with a matter subject to discussion or consideration becomes part of the public record. Such information shall be retained by the Board and shall be made available upon request.

WRITTEN COMMENT PERIOD

Any person, or authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. The written comment period ends at 5:00 P.M., on Monday, May 24, 2004. The Board will consider only written comments received at the Board office by that time (in addition to those written comments received at the public hearing). The Board requests, but does not require, that

persons who submit written comments to the Board reference the title of the rulemaking proposal in their comments to facilitate review.

Written comments shall be submitted to the following address:

Board of Forestry and Fire Protection
Attn: Christopher Zimny
Regulations Coordinator
P.O. Box 944246
Sacramento, CA 94244-2460

Written comments can also be hand delivered to the contact person listed in this notice at the following address:

Board of Forestry and Fire Protection
Room 1506-14
1416 9th Street
Sacramento, CA

Written comments may also be sent to the Board via facsimile at the following phone number:
(916) 653-0989

Written comments may also be delivered via e-mail at the following address:
board.public.comments@fire.ca.gov

AUTHORITY AND REFERENCE

Public Resources Code (PRC) § 4551 and 4554.5 authorizes the Board to adopt such rules and regulations as it determines are reasonably necessary to enable it to implement, interpret or make specific sections 4512, 4513 and 4561 of the Public Resources Code.. Reference: Public Resources Code sections 4513, 4551.5, 4561 and 21080.5.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

The proposed changes to the Forest Practice Rules are related to amending the "Transition Method", a silvicultural method which permits tree harvesting to develop an unevenaged forest stand. The amendments are generally considered "regulatory relief" to the existing rules in they permit a wider variety of trees to meet the post harvest stocking size requirements, compared to the existing rule. By expanding the post harvest stocking tree characteristics, greater flexibility is provided to small landowners allowing them to more quickly transition evenaged or irregular stands to unevenaged stands.

The Maximum Sustained Production of High Quality Timber Products (MSP) amendment provides consistency to stocking standards permitted under the revised Transition Method rule.

The Silviculture Methods Articles of the Forest Practice Rules are devised to recognize the needs of small landowners (and others) with understocked, evenaged, or irregular stands that they wish to manage under a unevenaged silviculture method through use of

the transition method. However, the existing transition (§ 913.2(b) [933.2(b), 953.2(b)]) has some limitations to those who want to create more balanced, unevenaged stands. Several problems with the existing rule are found:

- **Restrictive preharvest stocking requirements preclude appropriate use of the transition method**
- **Restrictive post harvest stocking standards do not take into account preharvest conditions**
- **Restrictive post harvest stocking sample requirements**
- **Ensure requirements for retaining larger sized tree in post harvest stands are maintained**
- **Restrictive re-entry limitations.**

SPECIFIC PURPOSE OF THE REGULATION

The proposed changes to § 913.2(b)[933.2(b), 953.2(b)], Regeneration Methods Used in Unevenaged Management, Transition, provide small forest landowners who actively manage their forests regulatory relief by permitting a wider range of conditions under which the transition prescription can be used. The expanded range of conditions primarily relate to development a unevenaged stand from a stand that currently does not contain sufficient trees to meet the minimum basal area, size and phenotypic quality requirements specified by the current transition stocking requirements (seed tree method standards as described in § 913.1(c)(1)(A)[933.1(c)(1)(A), 953.1(c)(1)(A)]). Subsection § 913.2(b) [933.2(b), 953.2(b)] is modified to articulate this intent.

Subsection § 913.2(b)(1)[933.2(b)(1), 953.2(b)(1)] modifies the existing rule language to clarify the area for determination of preharvest stocking levels shall be no greater than 20 acres in size. This is different from the existing rule where area determination of preharvest stocking levels can be greater than 20 acres.

Subsection § 913.2(b)(2) [933.2(b)(2), 953.2(b)(2)] clarifies existing grammar and consistency relative the types of silvicultural systems intended to be used following the use of the transition method.

Subsection § 913.2(b)(3) [933.2(b)(3), 953.2(b)(3)] deletes the overly restrictive requirements for stand suitability for use of the transition method. It is replaced with a broader definition of suitable stands, focusing on permitting the transition method for any stands having trees adequate for natural regeneration.

Subsection § 913.2 [933.2, 953.2] (b)(4), (5) and (7) clarifies grammar.

Subsection § 913.2(b)(6) [933.2(b)(6), 953.2(b)(6)] modifies the post harvest stocking standards. Existing rules require post harvest stocking standards to meet seed tree requirements (§ 913.1(c)(1)(A) [933.1(c)(1)(A), 953.1(c)(1)(A)]). This rule amend-

ment broadens the stocking requirements to permit trees less than 18 inches dbh but greater than 12 inches dbh to be sufficient residual stand seed trees.

Subsection § 913.2(b)(8) [933.2(b)(8), 953.2(b)(8)] replaces existing rule subsection § 913.2(b)(7) [933.2(b)(7), 953.2(b)(7)]. It specifies that the plan submitter shall demonstrate that the standards of the selection regeneration method will be met for the third entry of Plan areas harvested by the transition method.

§ 913.11 [933.11, 953.11]

Maximum Sustained Production of High Quality Timber Products

SPECIFIC PURPOSE OF THE REGULATION

Subsection § 913.11(c)(1) [933.11(c)(1), 953.11(c)(1)] is modified to correct a defect in citing only the Coast District's stocking requirements.

The proposed changes to Maximum Sustained Production of High Quality Timber Products, Subsections § 913.11(c)(1)(2) [933.11(c)(1)(2), 953.11(c)(1)(2)] modify the post harvest stocking standards proposed under the transition method amendment of subsection § 913.2(b)(6) [933.2(b)(6), 953.2(b)(6)], Regeneration Methods Used in Unevenaged Management, into the post harvest MSP stocking requirements. It is also modified to correct a defect in citing only the Coast District's stocking requirements. This amendment is needed to provide consistency of stocking standards required to meet MSP and those permitted under the proposed amendment of the Transition Method rule.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Board has determined the proposed action will have the following effects:

- Mandate on local agencies and school districts: None
- Costs or savings to any State agency: None
- Cost to any local agency or school district which must be reimbursed in accordance with the applicable Government Code (GC) sections commencing with GC § 17500: None
- Other non-discretionary cost or savings imposed upon local agencies: None
- Cost or savings in federal funding to the State: None
- The Board has made an initial determination that there will be no statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.
- Cost impacts on representative private persons or businesses: "The agency is not aware of any cost impacts that a representative private person or

business would necessarily incur in reasonable compliance with the proposed action."

- Significant effect on housing costs: None
- Adoption of these regulations will not: (1) create or eliminate jobs within California; (2) create new businesses or eliminate existing businesses within California; or (3) affect the expansion of businesses currently doing business within California.
- Effect on small business: None. The Board has determined that the proposed amendments will not affect small business.
- The proposed rules do not conflict with, or duplicate Federal regulations.

BUSINESS REPORTING REQUIREMENT

The regulation does not require a report, which shall apply to businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code § 11346.5(a)(13), the Board must determine that no reasonable alternative it considers or that has otherwise been identified and brought to the attention of the Board would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action.

CONTACT PERSON

Requests for copies of the proposed text of the regulations, the Initial Statement of Reasons, modified text of the regulations and any questions regarding the substance of the proposed action may be directed to:

Board of Forestry and Fire Protection
 Attn: Christopher Zimny
 Regulations Coordinator
 P.O. Box 944246
 Sacramento, CA 94244-2460
 Telephone: (916) 653-9418

The designated backup person in the event Mr. Zimny is not available is Doug Wickizer, California Department of Forestry and Fire Protection, at the above address and phone.

AVAILABILITY OF STATEMENT OF REASONS AND TEXT OF PROPOSED REGULATIONS

The Board has prepared an *Initial Statement of Reasons* providing an explanation of the purpose, background, and justification for the proposed regulations. The statement is available from the contact person on request.

When the *Final Statement of Reasons* has been prepared, the statement will be available from the contact person on request.

A copy of the express terms of the proposed action using UNDERLINE to indicate an addition

to the California Code of Regulations and ~~STRIKETHROUGH~~ to indicate a deletion, is also available from the contact person named in this notice.

The Board will have the entire rulemaking file, including all information considered as a basis for this proposed regulation, available for public inspection and copying throughout the rulemaking process at its office at the above address. All of the above referenced information is also available on the CDF web site at:

[http://www.fire.ca.gov/BOF/board/
board_proposed_rule_packages.html](http://www.fire.ca.gov/BOF/board/board_proposed_rule_packages.html)

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

After holding the hearing and considering all timely and relevant comments received, the Board may adopt the proposed regulations substantially as described in this notice. If the Board makes modifications which are sufficiently related to the originally proposed text, it will make the modified text—with the changes clearly indicated—available to the public for at least 15 days before the Board adopts the regulations as revised. Notice of the comment period on changed regulations, and the full text as modified, will be sent to any person who:

- a) testified at the hearings,
- b) submitted comments during the public comment period, including written and oral comments received at the public hearing, or
- c) requested notification of the availability of such changes from the Board of Forestry and Fire Protection.

Requests for copies of the modified text of the regulations may be directed to the contact person listed in this notice. The Board will accept written comments on the modified regulations for 15 days after the date on which they are made available.

**TITLE 20. CALIFORNIA
ENERGY COMMISSION**

NOTICE OF PROPOSED ACTION

**FOR ADOPTION OF REGULATIONS TO
APPROVE TECHNICAL ASSISTANCE
PROVIDERS AND CERTIFIERS FOR THE
CALIFORNIA CLIMATE ACTION REGISTRY**

Docket No. 03-QCTA-1
April 2004

The California Energy Commission (“Commission”) proposes to adopt new regulations establishing a screening and evaluation process for those firms that wish to act as certifiers or technical assistance providers for California Climate Action Registry participants. The proposed actions are taken under the

authority of sections 25213 and 25218(e) of the Public Resources Code. These regulations would implement, interpret, and make specific several provisions of Health and Safety Code section 42870.

**NOTICE THAT A PUBLIC HEARING
IS SCHEDULED**

The date set for the adoption of regulations at a public hearing is as follows:

Commission Business Meeting
June 2, 2004
California Energy Commission
Hearing Room A
1516 9th Street
Sacramento, CA 95814

Hearing Room A is wheelchair-accessible.

ORAL AND WRITTEN STATEMENTS

Interested persons may present oral and written statements, arguments, or contentions regarding the proposed regulations at the hearing, or may submit written comments to the Commission for consideration on or prior to June 2, 2004 by mailing them to:

Docket Unit
California Energy Commission
Docket No. 03-QCTA-1
1516 9th Street, MS-4
Sacramento, CA 95814
Or e-mailing them to: DOCKET@energy.state.ca.us
Or faxing them to Dockets at (916) 654-4354

**COPIES OF THE INITIAL STATEMENT OF
REASONS AND THE TEXT**

The Commission has prepared an initial statement of reasons for the proposed regulations. To obtain a copy of the initial statement of reasons or the express terms of the proposed regulations, please contact Jeff Wilson at (916) 657-4774 or by e-mail at jewilson@energy.state.ca.us. Additionally, the Commission has available all the information upon which the proposed regulations are based; to obtain copies, please contact the Docket Office at the above address or by calling (916) 654-5076.

INTERNET ACCESS

The Commission’s website will contain materials regarding this rulemaking proceeding. It can be accessed at the following address:

[http://www.energy.ca.gov/global_climate_change/
registry/index.html](http://www.energy.ca.gov/global_climate_change/registry/index.html)

**COPY OF THE FINAL
STATEMENT OF REASONS**

At the conclusion of the rulemaking, persons may obtain a copy of the final statement of reasons by contacting Jeff Wilson at (916) 657-4774 or by e-mail at jewilson@energy.state.ca.us.

POSSIBLE CHANGES

If the Commission considers changes to the proposed regulations pursuant to Government Code section 11346.8, and the changes are sufficiently related to the original text and within the scope of this Notice, a full copy of the text will be available for review at least 15 days prior to the date on which the Commission adopts or amends the resulting regulations.

PUBLIC ADVISER

The Commission's Public Adviser's Office is available to assist any person who wishes to participate in this proceeding. For assistance from the Public Adviser's Office, please call (916) 654-4489 or toll-free in California at (800) 822-6228.

CONTACT PERSONS

Inquiries concerning all aspects of the amendment process, including the substance of the proposed regulations, should be directed to Jeff Wilson, Project Manager, at (916) 657-4774 or by e-mail at jewilson@energy.state.ca.us. Mr. Wilson's designated backup contact person is Tim Olson, who can be reached at (916) 654-4528.

INFORMATIVE DIGEST

In September, 2000, SB 1771 was enacted establishing the California Climate Action Registry to accept California and national reports on greenhouse gas emissions from companies with operations in California. The purposes of the Registry include enabling participating entities to voluntarily record greenhouse gas emissions in a consistent certified format and to ensure that sources in the State receive consideration for certified emissions results under any future State, federal, or international regulatory regime relating to greenhouse gas emissions. SB 527 (Stats. 2001, ch. 769 §§ 13 and 16), enacted in October, 2001, clarified the roles and responsibilities of the Registry and the California Energy Commission (Commission).

SB 527 amended Health and Safety Code 42870 to require the Commission to, among other things, set forth a process for qualifying certifiers and technical assistance providers who wish to provide services to Climate Action Registry participants. On June 11, 2003, the Commission adopted an Order Instituting Rulemaking to consider the adoption of regulations to approve certifiers and technical assistance providers that wish to provide services to Climate Action Registry participants. The publication of this Notice of Proposed Action initiates the formal rulemaking process.

The objective of these regulations is to ensure that those firms approved as technical assistance providers,

general certifiers, and industry-specific certifiers are competent to carry out the necessary functions of those positions.

Existing law requires the Commission to develop a process to approve organizations to provide technical assistance regarding, or certify, the greenhouse gas emissions of participants to the Climate Action Registry. (Health and Safety Code § 42870.) These regulations would set forth the criteria and process for such approval.

Existing law requires the Commission to define the minimum technical and organizational capabilities and other qualifications approved firms are required to meet and to evaluate applicant organizations according to this list of qualification standards. These regulations set forth the minimum requirements that applicants must meet in order to be approved as a technical assistance provider, general certifier, or industry-specific certifier. Additionally, these regulations set forth the minimum informational requirements that must be contained in the applications for these positions.

Existing law requires the Commission to periodically update the list of approved technical assistance providers and certifiers by reviewing the capabilities of approved technical assistance providers and certifiers and recommending to the registry specific organizations to be added or removed from the approved lists. These regulations set forth the process by which new applications are reviewed and evaluated to determine if they meet the minimum qualifications for approval for these positions. They also set forth the process by which approved organizations would be re-evaluated on a periodic basis to ensure that they maintain the minimum qualifications.

Existing law requires the Commission to accompany certifiers on scheduled visits on a random basis to observe and evaluate whether the participant has a program in place for the preparation and submittal of participant-reported emissions results consistent with registry-approved procedures and protocols and to evaluate the reasonableness of the emissions information being reported for a sample of estimates or calculations. These regulations would establish a process by which the Commission would accompany a certifier to a Registry participant's site in order to evaluate a participant's program for reporting emissions results to the Registry.

NO INCORPORATION BY REFERENCE

The proposed regulations would not incorporate any documents by reference.

SMALL BUSINESS IMPACTS

The Commission concludes that the proposed regulations would not affect small business. The proposed regulations would set forth a process by

which firms could voluntarily apply to be certifiers or technical assistants to Registry participants. It would impose no additional requirements upon any small business that did not wish to become third-party certifiers or technical assistants. These regulations will benefit the entire state, including small business, by setting up a process by which firms can be qualified to certify greenhouse gas emissions in the event that these emissions may be regulated at a certain point.

LOCAL MANDATE DETERMINATION

If adopted, the proposed regulations would not impose a mandate on local agencies or school districts.

COST/SAVINGS ESTIMATE

There would be minor costs to one state agency—the California Energy Commission. It is estimated that implementation of these regulations would cost the Commission approximately \$25,000 per year. This cost is incurred mainly in reviewing applications for technical assistance providers and certifiers and in issuing conflict of interest determinations. The proposed regulations would not impose any costs that would be required to be reimbursed under Government Code section 17500 et seq. to any local agencies or school districts. There would be no other non-discretionary cost or savings imposed on local agencies and no cost or savings in federal funding to the state.

INITIAL DETERMINATION—ECONOMIC IMPACT ON BUSINESSES

The Commission hereby declares that it has made an initial determination that the proposed regulations will not have a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

The Commission and its staff are unaware of any legitimate cause and effect relationship between the proposed regulations and a significant statewide adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

This initial determination is based upon: (1) the fact that the proposed regulations would create a voluntary application process for those firms wishing to be qualified as certifiers or technical assistants under the California Climate Action Registry and would result in no additional burdens, duties, or costs upon those businesses not wishing to participate; and (2) the Commission and its staff are unaware of any legitimate cause and effect relationship between the proposed regulations and a significant statewide

adverse economic impact directly affecting business, including the ability of California businesses to compete with businesses in other states.

There is the potential that these regulations would have a positive impact on business by creating new opportunities for approved firms to certify or provide technical assistance to Registry participants. It is estimated that these new opportunities could allow for as many as 100 certifications per year, at an average price of \$7,500, resulting in a yearly benefit of \$750,000 for approved firms.

POTENTIAL FOR ADVERSE IMPACTS ON BUSINESS AND INDIVIDUALS

The Commission's assessment is that the proposed regulations would have no potential for adverse economic impact on California business enterprises and individuals.

The Commission's further assessment is that the proposed actions would avoid the imposition of unnecessary or unreasonable regulations or reporting, record keeping, or compliance requirements.

The Commission's assessment is that the proposed regulations would have no negative effect on the creation or elimination of California jobs. There is the potential that these regulations, by providing the opportunity for approved firms to provide services to Registry participants, could possibly result in the creation of some jobs in this area. The proposed regulations would have no negative effect on the creation of new business or the elimination or expansion of existing business within California. There is the potential that these regulations, by providing the opportunity for approved firms to provide services to Registry participants, could possibly result in the expansion of existing business within California.

The proposed regulations would require no new reports.

CONSIDERATION OF ALTERNATIVE PROPOSALS

Before adopting the proposed regulations, the Commission must determine that no reasonable alternative considered by it, or that has otherwise been identified and brought to the attention of the Commission, would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action. To date the Commission is not aware of any alternatives that would be more effective or less burdensome than the proposed regulations.

IMPACT ON HOUSING COSTS

If adopted, the proposed regulations would not have an effect on housing costs.

COST IMPACT ON PRIVATE PERSONS AND BUSINESSES

The Commission is not aware of any significant cost impacts that a representative private person or business would necessarily incur in reasonable compliance with the proposed regulations. The approval program is voluntary and the regulations do not impose any cost on businesses not wishing to provide services to Climate Action Registry participants. If an organization does choose to participate, the costs of reasonable compliance with the proposed regulations would be insignificant; these costs would entail the initial cost of compiling the necessary information for the required application and the subsequent annual costs of reporting any changes to this information.

RELATIONSHIP TO FEDERAL REGULATIONS

There are no comparable federal regulations or statutes to the Commission's procedural requirements for qualifying certifiers and technical assistants in California. Furthermore, no federally mandated regulation or amendment is being proposed.

STATUTORY AUTHORITY AND REFERENCE

Authority: Sections 25213 and 25218(e), Public Resources Code; 42842 and 42870, Health and Safety Code.

Reference: Section 42870 Health and Safety Code.

TITLE 20. PUBLIC UTILITIES COMMISSION

NOTICE OF PROPOSED REGULATORY ACTION

The California Public Utilities Commission (Commission) proposes to amend regulations described below after considering all comments, objections, or recommendations regarding the proposal.

At a duly noticed regularly scheduled meeting not earlier than July 8, 2004, at 10:00 a.m., in the Commission Auditorium, 505 Van Ness Avenue, San Francisco, the Commission will consider a proposal to amend Rule 77.7, contained in Article 19 of the Commission's Rules of Practice and Procedure, and set forth in Division 1, Chapter 1 of Title 20 of the California Code of Regulations. The proposed amended regulations will implement certain provisions of Assembly Bill (AB) 1735 (Committee on Utilities and Commerce, Ch. 452 of Stats. 2003) concerning extensions of time in ratesetting and quasi-legislative proceedings before the Commission.

AUTHORITY TO ADOPT RULES

Article XII, Section 2 of the California Constitution and Section 1701 of the Public Utilities Code authorize the Commission to adopt Rules of Practice and Procedure.

INFORMATIVE DIGEST

The California Public Utilities Commission proposes an amendment to its Rules of Practice and Procedure so as to implement certain procedures enacted by Assembly Bill (AB) 1735, Chapter 452 of the 2003 Statutes. This legislation, now codified at Sections 1701.5 and 1701.6 of the Public Utilities Code, allows the normal 18-month deadline for resolving issues raised in the scoping memo in a ratesetting or quasi-legislative proceeding to be extended if (a) the initial scoping memo indicates that more time is necessary and provides a reason for that delay; or (b) during the proceeding, the Commission makes a written determination that the deadline cannot be met, makes findings as to the reasons, and issues an order extending the deadline. In the latter case, the Commission's order itself would normally be subject to public review and comment.

To avoid delay in the extension process, the Commission seeks to amend Rule 77.7 to exempt Commission orders extending the AB 1735 deadlines from public review and comment.

AVAILABILITY OF STATEMENT OF REASONS AND PROPOSED TEXT

The Commission's Order Instituting Rulemaking (OIR) for the proposed rule amendment is available on the Commission's web site, www.cpuc.ca.gov/proceedings/R0402006.htm. The OIR includes a more detailed initial statement of the reasons for the rule amendment. Appendix A to the OIR sets forth the complete text of the proposed rule amendment.

COMMENTS AND INQUIRIES

Any interested person may submit written comments concerning the proposed rule amendment. The written comment period closes at 5:00 p.m. on Monday, May 24, 2004. All comments must be filed (by submitting an original and four copies) at the Commission's Docket Office by that time. Send one additional copy of comments to the following contact person:

John E. Thorson
Administrative Law Judge
California Public Utilities Commission
Division of Administrative Law Judges
505 Van Ness Avenue
San Francisco, CA 94102
Telephone: (415) 355-5568
E-mail: jet@cpuc.ca.gov

Inquiries concerning the substance of the proposed amendment, requests for copies of the text for the proposed amendment, or other questions should be directed to ALJ Thorson at the above street or e-mail address or telephone number. The entire rulemaking file (Docket No. R.04-02-006) is also available for inspection and copying at the Commission's Central Files, Room 2002, at the above street address.

**AVAILABILITY OF CHANGED
OR MODIFIED TEXT**

Following the comment period, the Commission may adopt the proposed rule amendment substantially as described in this notice. If modifications are made that are sufficiently related to the originally proposed text, the modified text, with the changes clearly indicated, will be made available to the public for at least 15 days prior to the date on which the Commission adopts the rule amendment. Requests for copies of any modified rule amendment should be sent to the attention of ALJ John E. Thorson at either of the addresses indicated above. The Commission will accept written comments on the modified rule for 15 days after the date on which the modifications are made.

**DISCLOSURE REGARDING
THE PROPOSED ACTION**

Mandate on local agencies and school districts: None.

Cost or savings to any state agency: None.

Cost to any local agency or school district that must be reimbursed in accordance with Government Code Section 17561: None.

Other nondiscretionary cost or savings imposed upon local agencies: None.

Costs or savings in federal funding to the state: None.

Cost impact on private persons or directly affected businesses: None.

Significant adverse economic effect on business: None.

Impact on small businesses: None.

Significant effect on housing costs: None.

The adoption of the proposed rule will neither create nor eliminate jobs in the State of California nor result in the elimination of existing businesses or create or expand businesses in the State of California.

GENERAL PUBLIC INTEREST

**BOARD OF
OCCUPATIONAL THERAPY**

**NOTICE OF EXTENSION OF PUBLIC
COMMENT PERIOD DEADLINE FOR
CALIFORNIA CODE OF REGULATIONS
DISCIPLINARY GUIDELINES
NEW SECTION 4144**

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) has extended the public comment period for the above proposed regulations. This proposal was originally noticed in the California Regulatory Notice Register, dated March 26, 2004. The original public comment period deadline for this proposal was April 16, 2004; however, the Board has extended the close of public comment period through May 17, 2004, at 5:00 p.m.

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on May 17, 2004. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the actions substantially as described below or may modify such actions if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for fifteen (15) days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written testimony related to this action or who have requested notification of any changes to the action.

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from the California Board of Occupational Therapy at 444 North Third Street, Suite 410, Sacramento, California 95814 or on the Board's website, www.bot.ca.gov.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Janet Yagi
 California Board of Occupational Therapy
 444 North Third Street, Suite 410
 Sacramento, CA 95814
 (916) 322-3278; (916) 445-6167 (FAX)
Janet_Yagi@dca.ca.gov

The backup contact person is:

Jeff Hanson
 California Board of Occupational Therapy
 444 North Third Street, Suite 410
 Sacramento, CA 95814
 (916) 324-4353; (916) 445-6167 (FAX)
Jeff_Hanson@dca.ca.gov

**BOARD OF
 OCCUPATIONAL THERAPY**

NOTICE OF EXTENSION OF PUBLIC
 COMMENT PERIOD DEADLINE FOR
 CALIFORNIA CODE OF REGULATIONS
 LIMITED PERMITS
 NEW SECTION 4123

NOTICE IS HEREBY GIVEN that the California Board of Occupational Therapy (Board) has extended the public comment period for the above proposed regulations. This proposal was originally noticed in the California Regulatory Notice Register, dated March 26, 2004. The original public comment period deadline for this proposal was April 16, 2004; however, the Board has extended the close of public comment period through May 17, 2004, at 5:00 p.m.

Any interested person, or his or her authorized representative, may submit written comments relevant to the proposed regulatory action to the Board. Written comments, including those sent by mail, facsimile, or e-mail to the address listed under Contact Person in this Notice, must be received by the Board at its office not later than 5:00 p.m. on May 17, 2004. The Board, upon its own motion or at the instance of any interested party, may thereafter adopt the actions substantially as described below or may modify such actions if such modifications are sufficiently related to the original text. With the exception of technical or grammatical changes, the full text of any modified action will be available for fifteen (15) days prior to its adoption from the person designated in this Notice as contact person and will be mailed to those persons who submit written testimony related to this action or who have requested notification of any changes to the action.

Copies of the exact language of the proposed regulations and of the initial statement of reasons, and all of the information upon which the proposal is based, may be obtained upon request from

the California Board of Occupational Therapy at 444 North Third Street, Suite 410, Sacramento, California 95814 or on the Board's website, www.bot.ca.gov.

CONTACT PERSON

Inquiries or comments concerning the proposed rulemaking action may be addressed to:

Janet Yagi
 California Board of Occupational Therapy
 444 North Third Street, Suite 410
 Sacramento, CA 95814
 (916) 322-3278; (916) 445-6167 (FAX)
Janet_Yagi@dca.ca.gov

The backup contact person is:

Jeff Hanson
 California Board of Occupational Therapy
 444 North Third Street, Suite 410
 Sacramento, CA 95814
 (916) 324-4353; (916) 445-6167 (FAX)
Jeff_Hanson@dca.ca.gov

DEPARTMENT OF FISH AND GAME

PUBLIC INTEREST NOTICE

**CESA CONSISTENCY DETERMINATION FOR
 Bay Point Repair Site along the BAPL Pipeline,
 ChevronTexaco
 Contra Costa County**

The Department of Fish and Game ("Department") received notice on March 26, 2004 that the Chevron-Texaco Pipeline Company proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act ("CESA"). This project consists of the repair of the BAPL pipeline at Bay Point. The activities include excavating the existing pipeline to uncover the point of defect, which will impact habitat for the salt marsh harvest mouse, California clapper rail, soft bird's beak, and California black rail.

The U.S. Fish and Wildlife Service, on February 23, 2004, issued to the U.S. Army Corps of Engineers a no jeopardy Federal Biological Opinion (1-1-04-F-0075) which considers the federally and state endangered salt marsh harvest mouse (*Reithrodontomys raviventris*), California clapper rail (*Rallus obsoletus longirostris*), and soft bird's beak (*Cordylanthus mollis mollis*), and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, ChevronTexaco Company is requesting a determination on whether the Federal Biological Opinion 1-1-04-F-0075 is consistent with CESA. If the Department determines that the Federal Biological Opinion is consistent with CESA, ChevronTexaco

Company will not be required to obtain an incidental take permit (Fish and Game Code Section 2081(b)) for the proposed project.

DEPARTMENT OF FISH AND GAME

PUBLIC INTEREST NOTICE

**CESA CONSISTENCY DETERMINATION FOR
Grizzly Island Repair Site along the BAPL Pipeline,
ChevronTexaco
Solano County**

The Department of Fish and Game (“Department”) received notice on March 26, 2004 that the Chevron-Texaco Pipeline Company proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (“CESA”). This project consists of the repair of the BAPL pipeline at Grizzly Island. The activities include excavating the existing pipeline to uncover the point of defect, which will impact habitat for the salt marsh harvest mouse.

The U.S. Fish and Wildlife Service, on March 2, 2004, issued to the U.S. Army Corps of Engineers a no jeopardy Federal Biological Opinion (1-1-04-F-0052) which considers the federally and state endangered salt marsh harvest mouse (*Reithrodontomys raviventris*) and authorizes incidental take.

Pursuant to California Fish and Game Code Section 2080.1, ChevronTexaco Company is requesting a determination on whether the Federal Biological Opinion 1-1-04-F-0052 is consistent with CESA. If the Department determines that the Federal Biological Opinion is consistent with CESA, ChevronTexaco Company will not be required to obtain an incidental take permit (Fish and Game Code Section 2081(b)) for the proposed project.

DEPARTMENT OF FISH AND GAME

PUBLIC INTEREST NOTICE

**CESA CONSISTENCY DETERMINATION FOR
Trinity River Bridge Replacements Project
Trinity County**

The Department of Fish and Game (“Department”) received notice on August 25, 2003 that the Trinity County Planning Department proposes to rely on consultations between federal agencies to carry out a project that may adversely affect species protected by the California Endangered Species Act (“CESA”). This project consists of the modification or replacement of four bridges over the Trinity River in order to

accommodate possible future operational changes to the Trinity River Division of the Central Valley Project. The activities will impact riparian habitat and in-water fish habitat.

The National Marine Fisheries Service (“NOAA Fisheries”) issued a no jeopardy federal biological opinion (151422SWR02AR6360:MK) on July 11, 2003 to the U.S. Bureau of Reclamation (“USBR”) which considered the federally threatened Southern Oregon/Northern California Coast ESU Coho Salmon (*Oncorhynchus kisutch*) (“SONCC Coho salmon”) and authorized incidental take. On September 24, 2003, the Department determined that the July 11, 2003 biological opinion was consistent with CESA for anticipated take of SONCC Coho salmon. Subsequent to these determinations, Trinity County and USBR reinitiated consultation with NOAA Fisheries because of changes to the project description and proposed activities, and obtained from NOAA Fisheries a new biological opinion on February 11, 2004, and an amendment on March 16, 2004.

Pursuant to California Fish and Game Code Section 2080.1, on March 19, 2004, Trinity County requested a determination that the February 11 biological opinion and March 16 amendment is consistent with CESA. If the Department determines that the federal biological opinion is consistent, Trinity County will not be required to obtain a separate incidental take permit under Fish and Game Code section 2081 for the project.

**RULEMAKING PETITION
DECISIONS**

DEPARTMENT OF INSURANCE

**DENIAL OF PETITION FOR RULEMAKING
(Government Code § 11340.7)**

By letter dated February 18, 2004, John Metz, for himself and as Chairman of the Board of Directors for California Consumer Health Care Council and Amy Bach, Executive Director of United Policyholders (“Petitioners”) petitioned the Insurance Commissioner of the State of California (the “Commissioner”) requesting adoption of a regulation. The Petitioners seek to have the Commissioner promulgate a regulation to require Licensees to provide verification from an original source of any alleged material fact upon which the Licensee wishes the Department

of Insurance to rely in arriving at any determination related to any rate making, rule making or complaint filed by any person against a Licensee. Notice is hereby given that the Commissioner denies the Petition for the reasons set forth below.

PROVISIONS OF THE CODE OF REGULATIONS
REQUESTED TO BE AFFECTED

Title 10, California Code of Regulations, Chapter 5.

AUTHORITY AND REFERENCE
CITED IN THE PETITION

California Insurance Code Sections 790.10, 1861.02(e) and 14013 and California Government Code Section 11152.

REASONS SUPPORTING THE
DEPARTMENT'S DETERMINATION

Petitioners seek to have the Commissioner require Licensees to provide verification from an original source of any alleged material fact upon which the Licensee wishes the Department of Insurance to rely in arriving at any determination related to any rate making, rule making or complain filed by any person against a Licensee.

Petitioners argue that California Insurance Code ("CIC") Sections 790.10, 1861.02(e) and 14013 and California Government Code Section 11152 provide the authority for the Commissioner to promulgate the requested regulation.

CIC section 790.10 provides the Commissioner with the authority to promulgate reasonable rules and regulations as necessary to administer the CIC Article 6.5, Unfair Practices.

CIC section 1861.02(e) provides the Commissioner with the authority to promulgate regulations implementing rate regulation and determination of rates.

CIC section 14013 provides the commissioner with the authority to adopt and enforce reasonable rules fixing the qualifications of licensees and managers necessary to promote and protect the public welfare and to regulate the conduct of licensees.

California Government Code section 11152 provides the head of each department may adopt such rules and regulations as are necessary to govern the activities of the department, so far as consistent with the law.

Petitioners request is denied as it fails to meet the authority and necessity standards required by the Government Code 11349.1.

Government Code Section 11342.1 requires that each regulation adopted be within the scope of authority conferred. Government Code Section

11342.2 requires that a regulation not be in conflict with the statute and be reasonably necessary to effectuate the purpose of the statute.

The Petitioners ask for a regulation which requires Licensees to provide verification from an original source of any alleged material fact upon which the Licensee wishes the CDI to rely in arriving at any determination related to any rate making, rulemaking or complaint.

Petitioners allege that their proposed regulation is necessary due to the number of instances of licensees failing to disclose material information as well as statements made by licensees containing false or misleading information. However, Petitioners fail to provide any information or examples of the instances they reference.

Further, Petitioners allege that the proposed regulation is necessary to permit the Commissioner to consistently and effectively enforce CIC Sections 1861.02, 1861.03, 790, 790.01 and 790.02.

With regard to ratemaking, rate filings submitted by a licensee are currently required to be submitted under penalty of perjury. Therefore Petitioners' regulation is unnecessary to effectuate the purposes of CIC section 1861.02.

With regard to rulemaking, the Department does not have the authority to promulgate a regulation requiring verification from an original source. Rulemaking procedures are governed by the provisions of the Government Code and any attempt to modify the rulemaking procedures would be inconsistent with those provisions.

With regard to the consumer complaint process, CIC section 790.03 already addresses Petitioners' concerns. Therefore, Petitioners' requested regulation is unnecessary to administer the Unfair Practices Act.

As Petitioners' proposed regulation is unnecessary to effectuate the purposes of the California Insurance Code, therefore Petitioners' request is denied.

AGENCY CONTACT PERSON

Lara B. Sweat, Counsel
California Department of Insurance
45 Fremont Street, 21st floor
San Francisco, CA 94105

OBTAINING COPIES OF THE PETITION

Interested persons have a right to obtain a copy of the Petition for Rulemaking and may do so by requesting a copy from the Agency Contact Person.

PROPOSITION 65

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)

NOTICE TO INTERESTED PARTIES

**Request for Information on Progesterone
(CAS# 57-83-0), A Chemical to be Considered by
the OEHHA Science Advisory Board's
Developmental and Reproductive Toxicant
(DART) Identification Committee**

The California Environmental Protection Agency's Office of Environmental Health Hazard Assessment (OEHHA) is the lead agency for the implementation of the Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65).

The Developmental and Reproductive Toxicant (DART) Identification Committee of OEHHA's Science Advisory Board advises and assists OEHHA in compiling the list of chemicals known to the State to cause reproductive toxicity which is mandated by Health and Safety Code Section 25249.8. The Committee serves as the State's qualified experts for rendering an opinion as to whether a chemical has been clearly shown through scientifically valid testing according to generally accepted principles to cause reproductive toxicity.

In accordance with the OEHHA's process for preparing information on chemicals to be evaluated by the State's qualified experts, OEHHA will review the available reproductive toxicity literature and data on progesterone, and prepare a summary of the information. The DART Identification Committee will consider the OEHHA summary of reproductive toxicity information before making findings regarding whether progesterone should be added to the Proposition 65 list of chemicals known to the state to cause reproductive toxicity. Interested parties or members of the public wishing to provide information relevant to this assessment should forward such information to the address given below. The publication of this notice marks the start of a 60-day data call-in period. Interested parties or members of the public wishing to provide information relevant to the assessment of reproductive toxicity of progesterone should forward such information to the address given below. Relevant information includes but is not limited to: epidemiological and animal bioassay studies of male, female or

developmental toxicity, in vitro test data, and other pertinent data on pharmacokinetics, biomarkers, and effects on biochemical and physiological processes in humans. A previous request for information relevant to the assessment of reproductive toxicity of progesterone was published in the *California Regulatory Notice Register* (Register 97, No. 52-Z) on December 26, 1997. Due to the delay in preparing the summary of information relevant to the assessment of reproductive toxicity of progesterone, OEHHA is opening this second 60-day data call-in period for the chemical.

This period ends on **Tuesday, June 8, 2004**. The information received during this data call-in period will be reviewed and considered by OEHHA as it develops the draft reproductive and developmental toxicity hazard identification document on progesterone.

OEHHA welcomes public participation and public input as part of these scientific assessments. If there is sufficient public interest, a public workshop or other public forum will be held to encourage scientific dialogue prior to completion of the draft hazard identification documents.

Notification of the availability of the draft hazard identification document and of the time, date, location, and agenda of the DART Identification Committee meeting where progesterone will be discussed will be provided in future notices published in the *California Regulatory Notice Register* and posted on OEHHA's Home Page at <http://www.oehha.ca.gov>. It is anticipated that the draft hazard identification document will be made available for a 60-day public comment period prior to the committee meeting at which progesterone will be considered.

Relevant information on progesterone should be sent in **triplicate** by mail or fax to:

Cynthia Oshita
Office of Environmental Health Hazard Assessment
Proposition 65 Implementation
P.O. Box 4010
1001 I Street, 19th floor
Sacramento, California 95812-4010
FAX: (916) 323-8803
Telephone: (916) 445-6900

Relevant information may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: coshita@oehha.ca.gov. In order to be considered, the relevant information must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered, sent by FAX, or transmitted electronically) by 5:00 p.m. on Tuesday, June 8, 2004.

**CALIFORNIA ENVIRONMENTAL
PROTECTION AGENCY
OFFICE OF ENVIRONMENTAL
HEALTH HAZARD ASSESSMENT**

SAFE DRINKING WATER AND TOXIC
ENFORCEMENT ACT OF 1986
(PROPOSITION 65)

NOTICE OF INTENT TO LIST CHEMICALS

The Safe Drinking Water and Toxic Enforcement Act of 1986 (Proposition 65) provides two primary mechanisms for administratively listing chemicals that are known to the State to cause cancer or reproductive toxicity (Health and Safety Code Section 25249.8(b)). One such mechanism by which a chemical may be listed is used when a body considered to be authoritative by the state's qualified experts has formally identified the chemical as causing cancer or reproductive toxicity. The following entities are identified as authoritative bodies for purposes of Proposition 65 as it pertains to chemicals known to cause cancer: the U.S. Environmental Protection Agency, the International Agency for Research on Cancer, the U.S. Food and Drug Administration, the National Institute for Occupational Safety and Health, and the National Toxicology Program. The criteria for listing chemicals through the authoritative bodies mechanism are set forth in Title 22, California Code of Regulations, Section 12306.

As the lead agency for the implementation of Proposition 65, the Office of Environmental Health Hazard Assessment (OEHHA), within the California Environmental Protection Agency intends to list the chemicals identified below as known to the State to cause cancer, pursuant to this administrative mechanism as provided in Health and Safety Code Section 25249.8(b) and Title 22 Cal. Code of Regs., Section 12306.

Relevant information on these chemicals was requested in a notice published in the *California Regulatory Notice Register* on September 26, 2003 (Register 03, No. 39-Z). A public forum was held on October 29, 2003. Vanadium pentoxide was included in the September 26 notice; however an extension to the public comment period was granted until January 26, 2004. Extensive comments were received on vanadium pentoxide. Review of these comments continues; and in the interest of moving forward with the listing of the remaining chemicals in this group, vanadium pentoxide is not included in this notice. OEHHA has determined that the remaining five chemicals meet the criteria for listing under Title 22, Cal. Code of Regs., Section 12306, and therefore is issuing a notice of intent to list them under Proposition 65. A document providing more detail on the basis

for the listing of these chemicals can be obtained from OEHHA's Proposition 65 Implementation Office at the address and telephone number indicated below, or from the OEHHA Web site at: <http://www.oehha.ca.gov/>. Anyone wishing to provide comments as to whether the listing of these chemicals meets the criteria for listing provided in Title 22, Cal. Code of Regs., Section 12306 should send written comments in triplicate, along with any supporting documentation, by mail or by fax to:

Ms. Cynthia Oshita
Office of Environmental Health Hazard Assessment
Street Address: 1001 I Street
Sacramento, California 95814
Mailing Address: P.O. Box 4010
Sacramento, California 95812-4010
Fax No.: (916) 323-8803
Telephone: (916) 445-6900

Comments may also be delivered in person or by courier to the above address. It is requested, but not required, that written comments and supporting documentation be transmitted via email addressed to: coshita@oehha.ca.gov. In order to be considered, comments must be postmarked (if sent by mail) or received at OEHHA (if hand-delivered, sent by FAX, or transmitted electronically) by 5:00 p.m. on Monday, May 10, 2004.

The following chemicals have been determined by OEHHA to meet the criteria set forth in Title 22, Cal. Code of Regs., Section 12306 for listing as causing cancer under the authoritative bodies mechanism:

Chemical	CAS No.	Reference
3,3'-Dimethoxybenzidine-based dyes metabolized to 3,3'-dimethoxybenzidine	—	NTP (2002)
3,3'-Dimethylbenzidine-based dyes metabolized to 3,3'-dimethylbenzidine	—	NTP (2002)
Ethylbenzene	100-41-4	IARC (1999)
Propylene glycol mono- <i>t</i> -butyl ether	57018-52-7	NTP (2003a; 2003b)
Thiouracil	141-90-2	IARC (2001)

REFERENCES

International Agency for Research on Cancer (IARC, 1999). *IARC Monographs on the Evaluation of Carcinogenic Risks to Humans*. Volume 77: 227-266. *Some Industrial Chemicals*. IARC, Lyon France.

International Agency for Research on Cancer (IARC, 2001). *IARC Monographs on the Evaluation of*

Carcinogenic Risks to Humans. Volume 79. *Some Thyrotropic Agents*. IARC, Lyon France.

National Toxicology Program (NTP, 2002). *Tenth Report on Carcinogens*. U.S. Department of Health and Human Services, Public Health Service, National Institutes of Health, NTP, Research Triangle Park, NC.

National Toxicology Program (NTP, 2003a). *Toxicology and Carcinogenesis Studies of Propylene Glycol Mono-t-butyl ether (CAS No. 57018-52-7) in F344/N Rats and B6C3F₁ Mice and a Toxicology Study of Propylene glycol Mono-t-butyl ether in male NBR rats*. Board Draft. NTP Technical Report Series No. 515. NIH Publication No. 03-4449. U.S. Department of Health and Human Services, Public Health Service, National Institutes of Health, NTP, Research Triangle Park, NC.

National Toxicology Program (NTP, 2003b). *Actions on Draft Technical Reports by the NTP Board of Scientific Counselors Technical Reports Review Subcommittee on May 22, 2003*, as reported on the NTP website at <http://ntp-server.niehs.nih.gov>.

DISAPPROVAL DECISIONS

DECISIONS OF DISAPPROVAL OF REGULATORY ACTIONS

Printed below are the summaries of Office of Administrative Law disapproval decisions. Disapproval decisions are available at www.oal.ca.gov. You may also request a copy of a decision by contacting the Office of Administrative Law, 300 Capitol Mall, Suite 1250, Sacramento, CA 95814-4339, (916) 323-6225—FAX (916) 323-6826. Please request by OAL file number.

**STATE OF CALIFORNIA
OFFICE OF ADMINISTRATIVE LAW
(Gov. Code Sec. 11349.3)
OAL File No. 04-0213-01SR**

In re:

AGENCY: OFFICE OF ADMINISTRATIVE HEARINGS ON BEHALF OF THE DEPARTMENTS OF GENERAL SERVICES, TRANSPORTATION, AND WATER RESOURCES, AND THE PUBLIC WORKS CONTRACT ARBITRATION COMMITTEE

RULEMAKING ACTION: Adopt sections 1395 and 1398; amend sections 1314, 1321, 1322, 1323, 1324, 1332, 1334, 1354, 1390, 1392 of title 1 of the California Code of Regulations

SUMMARY OF RULEMAKING ACTION

In this resubmitted rulemaking filing the departments of General Services, Transportation, and Water Resources (“the departments”) jointly revise existing regulations on Public Works Contract Arbitrations, and the Public Works Contract Arbitration Committee (“the committee”) adopts regulations to establish standards and qualifications for the certification of arbitrators. Pursuant to Public Contract Code, section 10245.4, the Office of Administrative Hearings has provided administrative services to the departments and the committee for the coordinated adoption of these regulations.

Date: March 29, 2004

MICHAEL McNAMER
Senior Counsel

for Debra M. Cornez
Acting Director and Senior Counsel

Original: Melissa Meith
cc: Heather Cline Hoganson

SUMMARY OF REGULATORY ACTIONS

REGULATIONS FILED WITH SECRETARY OF STATE

This Summary of Regulatory Actions lists regulations filed with the Secretary of State on the dates indicated. Copies of the regulations may be obtained by contacting the agency or from the Secretary of State, Archives, 1020 O Street, Sacramento, CA, 95814, (916) 653-7715. Please have the agency name and the date filed (see below) when making a request.

ENVIRONMENTAL PROTECTION AGENCY
Environmental Justice Small Grants Program

This rulemaking action specifies how grants funded to support projects that address environmental justice as authorized by Public Resource Code section 71116 shall be awarded and administered.

Title 27
California Code of Regulations
ADOPT: 10050, 10051, 10052, 10053, 10054, 10055, 10056
Filed 04/01/04
Effective 04/01/04
Agency Contact: Diane Trujillo (916) 327-7780

**OCCUPATIONAL SAFETY AND HEALTH
STANDARDS BOARD**

Tree Work—Safe Work Procedures

The regulatory action deals with safe work procedures for tree work. (Prior OAL File 03-1017-03S.)

Title 8

California Code of Regulations

AMEND: 3427

Filed 04/01/04

Effective 04/01/04

Agency Contact: Marley Hart (916) 274-5721

03/02/04 ADOPT: 1859.77.3 AMEND: 1859.2, 1859.77.2

03/01/04 AMEND: 1555

02/26/04

02/23/04 AMEND: 59150

02/23/04 AMEND: 1181.1

02/20/04 AMEND: Div. 8, Ch. 4, Sec. 25001

02/20/04 ADOPT: 58600

02/09/04 ADOPT: 599.893, 599.898, 599.906, 599.907, 599.909 AMEND: 599.894, 599.895, 599.896, 599.898 (renumbered to 599.897), 599.903, 599.904, 599.905, 599.906 (renumbered to 599.908), 599.910

02/05/04 AMEND: 20107

01/23/04 ADOPT: 18531.6 AMEND: 18531.61

01/22/04 AMEND: 18707.5

01/15/04 AMEND: 2270, 2271

01/15/04 ADOPT: 599.516

01/14/04 AMEND: 18427.1

12/29/03 REPEAL: Division 8, Chapter 20, Sections 41001, 41002, 41003, 41004, 41005, 41006, 41007, 41008, 41009, 41010, 41011, 41012, 41013

12/22/03 AMEND: 1859.61, 1859.105, 1859.106, 1859.141, 1859.142, 1859.145, 1859.147, 1859.148, 1859.150.1, 1859.151, 1859.152, 1859.153

12/19/03 ADOPT: 1859.70.1, 1859.71.3, 1859.78.5, 1859.78.6, 1859.78.7, 1859.93.1, 1859.120, 1859.121, 1859.122, 1859.122.1, 1859.122.2, 1859.123, 1859.124, 1859.124.1, 1859.125, 1859.125.1, 1859.126, 1859.127, 1859.128, 1859.129, 1859.130, 1859.140, 1859.141, 185

12/01/03 ADOPT: Division 8, Chapter 106, Section 59500

12/01/03 ADOPT: 22100, 22110, 22120, 22130

Title 3

03/23/04 AMEND: 3423(b)

03/23/04 AMEND: 6462

02/17/04 AMEND: 3430(b)

02/05/04 AMEND: 3417(b)

01/27/04 ADOPT: 2850, 2851, 2852, 2853, 2854, 2855, 2856, 2857

01/14/04 ADOPT: 6450, 6450.1, 6450.2, 6450.3, 6784 AMEND: 6000 REPEAL: 6450, 6450.1, 6450.2 6450.3, 6784

01/05/04 AMEND: 3700(c)

12/26/03 AMEND: 3417(b)

Title 4

03/29/04 ADOPT: 10163, 10164 AMEND: 10152, 10153, 10154, 10155, 10156, 10157, 10158, 10159, 10160, 10161, 10162

03/23/04 AMEND: 4001

**CCR CHANGES FILED WITH THE
SECRETARY OF STATE
WITHIN NOVEMBER 26, 2003
TO MARCH 31, 2004**

All regulatory actions filed by OAL during this period are listed below by California Code of Regulation's titles, then by date filed with the Secretary of State, with the Manual of Policies and Procedures changes adopted by the Department of Social Services listed last. For further information on a particular file, contact the person listed in the Summary of Regulatory Actions section of the Notice Register published on the first Friday more than nine days after the date filed.

Title 1

03/29/04 ADOPT: 1395, 1398 AMEND: 1314, 1321, 1322, 1323, 1324, 1332, 1334, 1354, 1390, 1392

Title 2

03/23/04 AMEND: 1859.2, 1859.20, 1859.21, 1859.74.2, 1859.74.3, 1859.74.4, 1859.75, 1859.75.1, 1859.78.3, 1859.79, 1859.81.1, 1859.83, 1859.107, 1859.145

03/23/04 ADOPT: 649.23, 649.24, 649.25, 649.26, 649.27, 649.28

03/23/04 ADOPT: 1859.160, 1859.161, 1859.162, 1859.162.1, 1859.163, 1859.164, 1859.164.1, 1859.165, 1859.166, 1859.166.1, 1859.167, 1859.168, 1859.169, 1859.170, 1859.171 AMEND: 1859.2, 1859.51, 1859.103, 1859.106, 1859.145.1

03/22/04 AMEND: 1859.77.2

03/22/04 ADOPT: 599.517

03/11/04 AMEND: 18703.1, 18703.2, 18703.3, 18703.4, 18703.5

03/11/04 AMEND: Div. 8, Ch. 53, Section 54200

03/09/04 ADOPT: 22500, 22501, 22502, 22503, 22504, 22505, 22506, 22507, 22508, 22509, 22510, 22511, 22512, 22513, 22514, 22515, 22516, 22517, 22518, 22519

CALIFORNIA REGULATORY NOTICE REGISTER 2004, VOLUME NO. 15-Z

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